

Form **843**
(Rev. August 2011)
Department of the Treasury
Internal Revenue Service

Claim for Refund and Request for Abatement

OMB No. 1545-0024

► See separate instructions.

Use Form 843 if your claim or request involves:

- (a) a refund of one of the taxes (other than income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding) or a fee, shown on line 3,
- (b) an abatement of FUTA tax or certain excise taxes, or
- (c) a refund or abatement of interest, penalties, or additions to tax for one of the reasons shown on line 5a.

Do not use Form 843 if your claim or request involves:

- (a) an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding (use the appropriate amended tax return),
- (b) a refund of excise taxes based on the nontaxable use or sale of fuels, or
- (c) an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290.

Name(s)	Your social security number [REDACTED]
Address (number, street, and room or suite no.)	Spouse's social security number
City or town, state, and ZIP code	Employer identification number (EIN)
Name and address shown on return if different from above	Daytime telephone number

1 Period. Prepare a separate Form 843 for each tax period or fee year. From _____ to _____	2 Amount to be refunded or abated: \$ _____
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3 Type of tax or fee. Indicate the type of tax or fee to be refunded or abated or to which the interest, penalty, or addition to tax is related.

☐ Employment
 ☐ Estate
 ☐ Gift
 ☐ Excise
 ☐ Income
 ☐ Fee

4 Type of penalty. If the claim or request involves a penalty, enter the Internal Revenue Code section on which the penalty is based (see instructions). IRC section: _____

5a Interest, penalties, and additions to tax. Check the box that indicates your reason for the request for refund or abatement. (If none apply, go to line 6.)

☐ Interest was assessed as a result of IRS errors or delays.
☐ A penalty or addition to tax was the result of erroneous written advice from the IRS.
☐ Reasonable cause or other reason allowed under the law (other than erroneous written advice) can be shown for not assessing a penalty or addition to tax.

b Date(s) of payment(s) ► _____

6 Original return. Indicate the type of fee or return, if any, filed to which the tax, interest, penalty, or addition to tax relates.

☐ 706
 ☐ 709
 ☐ 940
 ☐ 941
 ☐ 943
 ☐ 945
☐ 990-PF
 ☐ 1040
 ☐ 1120
 ☐ 4720
 ☐ Other (specify) ► _____

7 Explanation. Explain why you believe this claim or request should be allowed and show the computation of the amount shown on line 2. If you need more space, attach additional sheets.

Signature. If you are filing Form 843 to request a refund or abatement relating to a joint return, both you and your spouse must sign the claim. Claims filed by corporations must be signed by a corporate officer authorized to sign, and the officer's title must be shown.

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature (Title, if applicable. Claims by corporations must be signed by an officer.) _____

Date _____

Signature (spouse, if joint return) _____

Date _____

Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature <i>James Creech</i>	Date 2/17/23	Check <input type="checkbox"/> if self-employed	PTIN [REDACTED]
	Firm's name ►	Firm's EIN ►			
	Firm's address ►	Phone no.			

Attachment to 433
2016 Request for Refund
Edward Grech

Procedural History

The Taxpayer is requesting a refund for his 2016 tax year individual tax return. The Taxpayer is a United States citizen and resides in California.

The Taxpayer originally filed a form 1040 as a married filing single taxpayer. The Taxpayer timely filed an extension of time request for 2016 prior to April 15, 2017. Taxpayer made the required estimated payments prior to the request for an extension. The 2016 1040 was electronically filed on or about October 14, 2017.

On or about March 3, 2020 the IRS proposed adjustments that the Taxpayer believes are incorrect.

On or about February 26, 2021 the IRS offset a refund in satisfaction of the proposed adjustments.

The Taxpayer is requesting a refund within the two year time period to file the refund claim.

IRS Errors to Adjustments

The Taxpayer disagrees with some but not all of the adjustments made by the IRS for the 2016 tax year. The adjustments the Taxpayer believes are incorrect are the adjustments made to the depreciation of aircraft, the interest reported on the Schedule C, and the unreimbursed business expenses. These adjustments also triggered a change in the itemized deduction limitation which improperly disallowed a portion of the itemized deductions claimed on the return. Finally the Taxpayer disagrees with the penalties assessed for the tax year under IRC section 6662.

Depreciation

Aircraft adjustments are incorrect. In 2016 the Taxpayer owned and operated two aircraft to facilitate the production of income for his business. The Taxpayer is in the trade or business of manufacturing automobiles. He primarily manufactures private busses and tour coaches that are sold to limousine companies and tour companies across the United States. The manufacture of the vehicles is done at a manufacturing facility in Mexico.

In 2016 the Taxpayer maintained two aircraft. He properly claimed bonus depreciation on the aircraft and took depreciation totaling \$3,036,908.

The two aircraft are a Diamond airplane with the tail number N914GM and a Phenom Aircraft with the tail number N914EG. The Diamond airplane was placed into service on or about April 29, 2016. A copy of the purchase agreement is attached as an exhibit to this refund request.

The Taxpayer used the Diamond aircraft 98.14% for business usage. The flight logs demonstrating the business usage, flight meter, and purpose of the flights are attached as an exhibit to this refund request.

The Phenom Aircraft with the tail number N914EG was placed into service July 1, 2016. The Taxpayer used the aircraft 77% for business and flight logs that demonstrate the business usage, flight meter and purpose of the flights are attached as an exhibit to this refund request.

The proposed adjustments reduced the claimed depreciation deduction from \$3,036,908 to \$2,121,508. This reduction increased taxable income by \$915,389. The Taxpayer believes this is incorrect.

Schedule C Interest

The Taxpayer also deducted the interest paid on the aircraft as a schedule C business expense. Copies of the amortization schedules are attached as an exhibit to this refund request.

The IRS reduced the amount of the claimed Schedule C from \$76,351 to \$56,044. The Taxpayer believes that this adjustment of \$20,307 is incorrect.

Miscellaneous Itemized Adjustments

The above adjustments increased the Taxpayer's income. This increased income subsequently imposed further limitations on the Taxpayers itemized deductions. The IRS disallowed \$34,105 worth of itemized adjustments based upon this mathematical formula. The Taxpayer believes that based upon the correct, ie, uncontested, adjustments this limitation should be less than \$4,000 instead of \$34,105. The Taxpayer is therefore seeking a refund of the additional tax paid because of that incorrect \$30,000 adjustment.

The Taxpayer is also seeking to move \$143,715 of interest expense from Unreimbursed Business Expenses to investment interest expense. The \$143,715 was paid as part of a home equity line of credit and the proceeds were used as part of the Taxpayer's investment portfolio for his and his business benefit.

Summary of Adjustments

The Taxpayer believes that the total incorrect adjustments for 2016 total \$965,705. Based upon the Taxpayers marginal rates for that income, the IRS has improperly collected \$382,419 before penalties and interest. The Taxpayer is seeking a refund of that amount plus amounts paid in penalties and interest.

Improper Assessment of Penalties

The Taxpayer believes that the penalties are inappropriate because the positions taken on the return for the above items are correct as filed. Alternatively, the Taxpayer believes that if there is a deficiency for the 2016 tax year penalties would be inappropriate because the Taxpayer has a reasonable cause defense under Internal Revenue Code section 6664 due to reliance on a tax professional, in this case a certified public accountant who prepared the return after the Taxpayer disclosed all of the relevant information and documentation. Furthermore, the Taxpayer believes that the IRS has not demonstrated that the penalties complied with Internal Revenue Code section 6751 which requires prior managerial approval.

Therefore, the Taxpayer requests that the IRS abate and refund the 2016 penalties in the amount of \$92,555

The total refund requested is \$474,974 which is the sum of the adjustments to tax plus the abatement of the penalties.